

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #12	CCRB Case #: 201901821	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/28/2019 9:27 AM	Location of Incident: § 87(2)(b) Over the telephone	Precinct: 77	18 Mo. SOL 8/28/2020	EO SOL 4/14/2021	
Date/Time CV Reported Thu, 02/28/2019 10:17 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/28/2019 10:17 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Camacho	06845	932400	077 PCT
2. SGT Michael Malone	04044	937013	PBSI

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lenita Harrison	26439	932776	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jose Camacho	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Jose Camacho questioned § 87(2)(b)	§ 87(2)(b)
B.POM Jose Camacho	Abuse: Police Officer Jose Camacho entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.SGT Michael Malone	Abuse: Over the telephone, Sergeant Michael Malone did not process § 87(2)(b)'s complaint regarding an officer over the phone.	§ 87(2)(b)

Case Summary

On February 28, 2019, § 87(2)(b) submitted this complaint with the CCRB via telephone.

At approximately 9:27 a.m. on February 28, 2019, § 87(2)(b) was in her residence at § 87(2)(b) in Brooklyn. § 87(2)(b)'s home alarm system was activated, and an automatically generated report of a burglary in progress was placed to 9-1-1. Police Officers Jose Camacho and Lenita Harrison responded to the location. There was honking on the street and Police Officer Harrison made remarks based upon mental disability § 87(2)(g) § 87(2)(b). Police Officer Camacho knocked on the door and § 87(2)(b) answered. Police Officer Camacho asked § 87(2)(b) for her identification (**Allegation A: Abuse of Authority – Question,** § 87(2)(g)). Police Camacho entered § 87(2)(b)'s residence (**Allegation B: Abuse of Authority – Entry,** § 87(2)(g)). § 87(2)(b) called the 77th Precinct stationhouse and spoke to Sergeant Michael Malone. § 87(2)(b) wanted to file a complaint and Sergeant Malone told her to contact the CCRB (**Allegation C: Abuse of Authority – Process Civilian Complaint,** § 87(2)(g)). No arrests or summonses resulted from this incident.

The investigation obtained two body-worn camera videos (Board Reviews 01 and 02).

Findings and Recommendations

§ 87(2)(g)

Allegation (A) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Jose Camacho questioned § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Jose Camacho entered § 87(2)(b)
in Brooklyn.

The statements provided by § 87(2)(b) who was interviewed by the CCRB on March 6, 2019 (Board Review 05), and Police Officer Camacho, who was interviewed at the CCRB on April 15, 2019 (Board Review 06), are generally consistent.

The call made to 9-1-1 was generated by § 87(2)(b)'s home alarm system. Upon Police Officer Camacho knocking on the front door, § 87(2)(b) opened the door enough for her upper body and arms to be seen. § 87(2)(b) did not fully open the door. Police Officer Camacho informed § 87(2)(b) that he and Police Officer Harrison were responding to a burglary alarm. § 87(2)(b) informed Police Officers Camacho and Harrison that she had been experiencing issues with her alarm system and that there was no robbery. Police Officer Camacho asked § 87(2)(b) questions regarding who she was and asked for her identification. § 87(2)(b) did not have her identification with her and entered the home. Police Officer Camacho entered the location. § 87(2)(b) produced her identification and Police Officer's Camacho and Harrison left the location.

During § 87(2)(b)'s CCRB interview she stated that she had told Police Officer Camacho he was not allowed in the residence. § 87(2)(b) told Police Officer Camacho this when he first informed her he needed to enter the home, as he walked in, and when she had retrieved her identification.

During Police Officer Camacho's CCRB interview he stated that he asked § 87(2)(b) approximately three to four times for her identification before she entered the home to retrieve it. He asked for an identification to verify § 87(2)(b) resided at the location. Police Officer Camacho's experience included having made arrests from reported burglaries and he explained the manner in which § 87(2)(b) opened the door in addition to her unwillingness to cooperate was unusual. Police Officer Camacho entered the home to verify that there was no burglary. Police Officer Camacho stated that § 87(2)(b) did not tell him not to enter.

At 2:27 minutes into the video captured on Police Officer Camacho's BWC (Board Review 01), § 87(2)(b) opens the door approximately one to two feet and only her upper body is visible with no view into the residence. At 3:52 minutes into the video § 87(2)(b) says, "You can't just come into my house!" Police Officer Camacho enters the residence. At 4:14 minutes into the recording § 87(2)(b) says, "I don't want you here."

The investigation weighed the testimonies provided by § 87(2)(b) and Police Officer Camacho against the body-worn camera footage obtained by the investigation. It was determined that § 87(2)(b) did tell Police Officer Camacho that she did not want him in the residence prior to and after he entered.

According to NYPD Patrol Guide, section 212-11 (Board Review 07), an officer must have objective credible reason to approach a civilian and seek information related to the reason(s) the person was approach, such as name and address.

In People v. Peterkin, 12 A.D.3d 1026 (2004) (Board Review 08), the courts determined that an emergency exception to the search warrant requirement applied because the police justifiably believed that they had interrupted a burglary in progress and their entry into the apartment was necessary to prevent the commission of a crime.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Over the telephone, Sergeant Michael Malone did not process § 87(2)(b)'s complaint regarding an officer.

§ 87(2)(b) during her CCRB interview (Board Review 05) stated she called the 77th Precinct stationhouse to file a complaint. On March 18, 2019, § 87(2)(b) provided additional information via email (Board Review 09).

§ 87(2)(b) called the 77th Precinct stationhouse and was transferred to an officer who identified himself as a sergeant. § 87(2)(b) requested information for Police Officers Camacho and Harrison in addition to saying she wanted to file a complaint. § 87(2)(b) was provided with the names of Police Officer Camacho and Harrison. She was told to call the CCRB regarding her desire to file a complaint. § 87(2)(b) was provided with the CCRB's telephone number and was informed she could file a complaint by calling the CCRB directly, submitting an online complaint, or by calling 3-1-1.

Sergeant Malone was interviewed at the CCRB on June 13, 2019 (Board Review 10). Sergeant Malone testified that he had no independent recollection of the incident. Sergeant Malone had no recollection of a conversation he had with any female civilian regarding filling a complaint. Sergeant Malone did not recall any other sergeant having this conversation. Sergeant Malone stated that he was assigned as the desk sergeant on the day of the incident and that if he was present at the desk he would have been the sergeant who would have answered the telephone. Sergeant Malone said he would inform civilians that to file a complaint against an officer they could submit their complaint with 3-1-1, the CCRB and he would provide the telephone number, or he could take the complaint over the telephone.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the only CCRB case to which § 87(2)(b) has been a party (Board Review 11).
- Sergeant Malone has been a member of service for 14 years and this is his first CCRB allegation.
- Police Officer Camacho has been a member of service for 15 years and has 17 prior CCRB allegations in 10 cases. § 87(2)(g)

- In Case #200600018, in which an allegation of a question and/or stop was made was substantiated. The CCRB recommended command discipline. The NYPD disposition resulted in command discipline.
- In Case #200600018, in which an allegation of a retaliatory summons was made was substantiated. The CCRB recommended command discipline. The NYPD disposition resulted in command discipline.
- In Case #200601128, in which an allegation of a question and/or stop was made was substantiated. The CCRB recommended charges. The NYPD disposition resulted in no disciplinary action.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal conviction (Board Review 12).
- A Notice of Claim search was submitted to the New York City Comptroller's Office on April 9, 2019, and on May 11, 2019, an email was received advising that no documents had been located (Board Review 13).

Squad No. 12

Investigator: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Squad Leader: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Reviewer: _____

Signature	Print Title & Name	Date
-----------	--------------------	------